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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,711	10/06/2000	Dimitri Kanevsky	YOR9-2000-0241-US1	2109

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EXAMINER

LE, DANH C

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/680,711

Applicant(s)

KANEVSKY ET AL.

Examiner

DANH C LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 13-19 have been renumbered 13-20.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 7-8, 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ghisler (US 5,950,128).

As to claim 1, Ghisler teaches a method of providing data to a passive device (figure 1, 108) comprising:

(a) identifying a system (MSC 1, MSC 2) that has control over communications of an active device (107) associated with said passive device (108); and

(b) transmitting said data (messages) to said system for transmission to said passive device (108).

As to claim 2, Ghisler teaches the method of claim 1, further comprising (c) identifying said active device (107) with which said passive device (108) is associated, and wherein said identity of said active device (107 and col.4, line 46-col.6, line 14) is used by step (a).

As to claim 7, the claim is an apparatus of claim 1; therefore, the claim is interpreted and rejected as set forth in the claim 1.

As to claim 8, the claim is an apparatus of claim 2; therefore, the claim is interpreted and rejected as set forth in the claim 2.

As to claim 16, the claim is a computer program claim of claim 1; therefore the claim is interpreted and rejected as set forth in the claim 1.

As to claim 17, the claim is a computer program claim of claim 2; therefore the claim is interpreted and rejected as set forth in the claim 2.

As to claim 18, the claim is a computer program claim of claim 4; therefore the claim is interpreted and rejected as set forth in the claim 4.

As to claim 19, the claim is a computer program claim of claim 5; therefore the claim is interpreted and rejected as set forth in the claim 5.

As to claim 20, the claim is a computer program claim of claim 6; therefore the claim is interpreted and rejected as set forth in the claim 6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unif: 2683

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 3-6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghisler (US 5,950,128) in view of Pepe (US 5,742,905).

As to claim 3, Gaukel teaches the method of claim 2, wherein a database (col.4, lines 26-45) contains said identity of said active device (107) and a passive device (108) of said subscriber that are associated with said active device. Ghisler fails to teach a list of passive devices. Pepe teaches a list of passive device (col.1, lines 11-36 and col.7, lines 4-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Pepe into the system of Ghisler in order to enhance system performance of increasing the answering probability of calls to mobile radio terminals.

As to claim 4, Ghisler teaches method of claim 3, further comprising (d) identifying said passive device (108) that is to receive said data, and wherein said identity of said passive device (108 and col.4, line 24-col.5, line 34) is used by step (c).

As to claim 5, Ghisler teaches the method of claim 3, wherein said passive device is selected from the group consisting of: a watch, a pen, a telephone, a frame, a wallet, and a beeper.

As to claim 6, Ghisler teaches the method of claim 5, wherein said active device is a cellular telephone.

As to claim 9, the claim is an apparatus of claim 3; therefore, the claim is interpreted and rejected as set forth in the claim 3.

As to claim 10, the claim is an apparatus of claim 4; therefore, the claim is interpreted and rejected as set forth in the claim 4.

As to claim 11, the claim is an apparatus of claim 5; therefore, the claim is interpreted and rejected as set forth in the claim 5.

As to claim 12, the claim is an apparatus of claim 6; therefore, the claim is interpreted and rejected as set forth in the claim 6.

3. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghisler in view of Gaukel (US 6,100,806).

As to claim 13, Ghisler teaches a passive device (figure 4) comprising, a personal article that has a display (404), a receiver (406) capable of receiving data via a

wireless transmission, and a controller (408) for processing said data for display on said display and said transmission of said identity message by said transmitter.

Ghisler fails to teach a transmitter capable of transmitting an identity message only a short distance to an-active device. Gaukel teaches a transmitter capable of transmitting an identity message only a short distance to an-active device (Gaukel, figure 3 and figure 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Gaukel into the system of Ghisler in order to send the messages from the passive device to the active device.

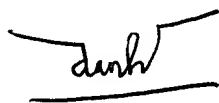
As to claim 14, Gaukel teaches passive device of claim 12, wherein said short distance is in a range of about zero foot to about 100 feet (Gaukel, col.11, lines 13-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Gaukel into the system of Ghisler in order to send the messages from the passive device to the active device.

As to claim 15, Ghisler passive device of claim 13, wherein said personal article is selected from the group consisting of: a watch, a pen, a telephone, a frame, a wallet and a beeper (107).

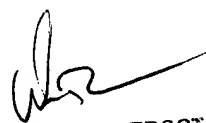
Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 703-306-0542. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Danh C. Le  
September 23, 2002



WILLIAM TROST  
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